

Additional near-term number conservation benefits can also be realized through UNP Phase 1 implementation. For example, carriers entering markets or expanding to additional rate areas could use UNP to obtain a block of numbers smaller than either an entire exchange code or a thousand-block.<sup>23</sup> Such a use would be ideal for a service provider that is expanding its service footprint to a rate area where it does not expect to require more than a few numbers.

When implemented, UNP will benefit competition by improving the ability of customers to obtain the number that they want from the service provider of their choice. UNP recognizes that carriers do not own numbers, but instead hold them in trust for the use of customers. UNP will also diminish the strain on the public numbering resource by providing a creative conservation alternative. UNP Phase 1 will allow carriers to enter markets with service footprint inventories significantly smaller than pooling will provide. This will prolong the life of each NPA and, by extension, of the NANP.

MCI WorldCom encourages the Commission to proceed with ordering UNP Phase 1 as described above. The benefits from Phases 2 and 3, which require the intervention of a third party, cannot be fully evaluated until after pooling is implemented. Therefore, we also recommend that further industry study be undertaken before ordering those phases.

**V. ALTERING THE RELATIONSHIP BETWEEN RATE CENTERS AND NUMBERING WILL NOT OCCUR WITHOUT COMMISSION LEADERSHIP**

MCI WorldCom has previously provided the Commission with a white paper on rate areas and numbering. That paper is included in Attachment I herein.

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<sup>23</sup> This would allow carriers to compete with specific ILEC products, such as Extended Area Service (EAS), without requiring the assignment of additional resources. It would similarly facilitate targeted offerings to particular market niches, e.g., it might allow carriers to offer services to ISPs in a more efficient manner.

Rate center consolidation directly addresses the footprint requirements of new service providers. Accordingly, in some circumstances it can provide code conservation benefits. Rate center consolidation can reduce the footprint requirements of new service providers by reducing the number of rate areas in which they must obtain numbering resources. However, rate center consolidation can be difficult to implement because of its effect on LEC rate structures. Rate center consolidation also raises a number of other issues that must be carefully considered.

Rate center consolidation is most beneficial if it is accomplished relatively early in the life of an NPA and before widespread entry by new service providers. Rate center consolidation cannot reduce the footprint needs of carriers that have already obtained numbering resources, unless a carrier has not yet assigned numbers from a particular NXX code and returns that unused code.

Rate center consolidation can narrow future area code relief options. Geographic splits that partition a single rate area must not be implemented. Such splits will either harm some CLEC customers, by requiring them to suffer ten-digit number changes, or will waste the public numbering resource by requiring the duplication of some assigned NXX codes in one or more of the new NPAs. The industry has recently experienced a three-way split of the consolidated Phoenix rate area.<sup>24</sup> That experience should have convinced all parties that there is no way to implement such a split in an efficient, nondiscriminatory manner. Indeed, the Industry Numbering Committee (INC) has recently agreed to modify its NPA Relief Guidelines to reflect this point.<sup>25</sup> Accordingly, the effect of rate center consolidation on future relief options should be carefully considered. Rate center consolidation should not be so extensive as to cover a

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<sup>24</sup> See Attachment II for a copy of the filing made to the Commission regarding the Arizona three-way split.

<sup>25</sup> See INC meeting minutes, June 1998 meeting.

geographic area sufficiently large that a split might otherwise be an appropriate future relief option.

If rate center consolidation is implemented in any area, it should be uniformly implemented by all LECs operating in that area. Inconsistent rate areas raise a host of problems and should not be encouraged.<sup>26</sup> It should be noted that inconsistent rate areas would result if rate center consolidation were to be implemented independently by LECs. As MCI WorldCom's white paper shows, inconsistent rate areas create customer confusion regarding local and toll boundaries. They also cause a disconnect between a carrier's retail offering and its underlying costs by making some local calls subject to access charges that should only apply to toll calls. Inconsistent rate areas also diminish the benefits of number portability since it is difficult, if not impossible, to port numbers from a carrier that adheres to inconsistent rate areas. Inconsistent rate areas will also severely limit the benefits of LNP-based conservation measures such as thousand-block pooling. For example, with thousand-block pooling a separate pool will have to be established for each rate area as evidenced in the New York pooling trial. A carrier that adheres to inconsistent rate areas will not be able to participate in the same pool as consistent rate area carriers. However, the potential conservation benefits of pooling are maximized when the greatest number of carriers participate in each pool. Thus, inconsistent rate areas confuse customers, complicate inter-carrier compensation, harm number portability, and limit the benefits of pooling. They would fragment the network geography and should not be encouraged.

IntraLATA toll competition must also be factored in to considerations of rate center consolidation. Such competition provides substantial benefits to consumers. Insofar as rate center consolidation would reduce the volume of toll traffic by redefining some calls as local, it

could have the effect of moving traffic from a highly-competitive market to a largely-monopolized market. Since ILECs are unlikely to agree to rate center consolidation unless it is done in a revenue-neutral manner, one likely outcome is higher basic rates for local service. Thus, the net result of shifting this traffic from the competitive intraLATA toll market to the less-competitive local exchange market, is higher rates for consumers.

Ultimately, the rating paradigm is built on two things: (1) the importance of the geographical distance between two end users whose physical locations are represented by the V&H coordinates of their rate centers; and (2) the fact that rating information is implicitly embedded in the NPA-NXX. The Commission and the industry can only escape this paradigm by eliminating one or both of these. MCI WorldCom encourages the Commission to build on the work done by the Colorado Commission by directing NANC to examine the issues associated with implementation of a technical solution that would separate rating information from the NPA-NXX. Such a solution would obviate the need for rate center consolidation, which has proven so difficult. Nor should the Commission ignore the fact that the irrational distinction between access charges and local call completion is a significant factor in the perpetuation of the rate area paradigm.

Removal of rating intelligence from the telephone number address would provide a number of potential benefits. It would permit geographic portability. MCI WorldCom recommends that, at least initially, such portability be limited to within an NPA. This would allow greater efficiencies in the use of an NXX without affecting the basic, geographic nature of the area code system. Removal of rating intelligence from the telephone number address would

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<sup>26</sup> Specialized calling plans such as optional EAS can be thought of as inconsistent rate areas. They require specific NXX codes to be dedicated to the specialized service

also, eventually, eliminate the rating issue associated with wireless-to-wireline porting.<sup>27</sup>

Finally, if the irrational regulatory distinction between local call completion and access charges were eliminated, it would encourage the creation and proliferation of truly market-based calling plans and products. We encourage the Commission to delegate to the NANC the development of requirements that would achieve these objectives, pending later regulatory consideration of their implementation.

## **VI. CONSERVATION MEASURES THAT DO NOT REDUCE THE NEED FOR FOOTPRINT ARE UNNECESSARY OR HARMFUL**

### **A. Demonstration of Need**

The Commission observes that the CO Code Guidelines do not require applicants to demonstrate their readiness to utilize initial codes, or their need to obtain growth codes.<sup>28</sup> The Commission is concerned that the absence of controls may lead some carriers to obtain numbers that they are unable to use in the near term, particularly as an NPA approaches jeopardy.

States must exercise their delegated authority to oversee area code relief in a responsible manner. This means that area code relief must be implemented in a sufficiently timely fashion to avoid shortages, rationing, and lotteries. If there is fear on the part of service providers that they are likely to face a protracted period of time in which they cannot obtain numbers, this should be taken as evidence that states are not exercising their delegated authority prudently. The Commission should not seek to facilitate delay by state commissions in implementing necessary relief by making it more difficult for service providers to obtain numbers.

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<sup>27</sup> See MCI Comments in *Common Carrier Bureau Seeks Comment on North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration*, Public Notice, CC Docket 95-116, DA 98-1112, NSD File No. L-98-84 (Comm. Carr. Bur. rel. June 29, 1998) (“WWITF Notice”).

<sup>28</sup> Notice at para. 57.

To obtain an initial code, a service provider should be required to submit evidence that it is certified to provide service in a particular rate area. Service providers should not be required to make any showing beyond this. NANPA is in no position to evaluate business plans and should have no authority to deny an initial request because, in its judgment, a carrier will not “need” a code in a particular rate area before well past the time it will take to activate that code.

State commissions hold authority to oversee area code relief. The prudent exercise of that authority might lead a state commission to consult with NANPA on the issuance of codes, particularly during jeopardy. However, any involvement by a state commission must not introduce additional delay into the process of obtaining a code. Current industry agreement provides that an NXX will be assigned within ten days of NANPA’s receipt of the request.<sup>29</sup> Any state commission consultation with NANPA should not extend that ten-day period. If it did, service providers would simply adjust their expectations and submit code requests earlier to avoid this additional and unnecessary delay. Thus, state involvement would cause requests to be submitted even earlier than they are today. MCI WorldCom emphasizes that a code request must be made approximately five months in advance of the time when that code will be available to customers to ensure that the code is activated in the networks of all carriers.

MCI WorldCom agrees that, with respect to “growth codes,” service providers should be required to make a “satisfactory showing of need.” It must be emphasized, however, that growth codes are not a substantial factor in area code exhaust, and that any required showing is unlikely to provide significant code conservation benefits. Nonetheless, responsible management of the public numbering resource means that service providers should not be able to obtain growth codes in circumstances where customer demand does not justify issuance of the code.

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<sup>29</sup> See Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, Section 5.2.2 (rev. April 26, 1999)

MCI WorldCom proposes that when a carrier submits a request for a growth code, it should be required to provide evidence that shows that, given its current utilization and recent actual growth, it needs an additional code. Alternatively, carriers should be able to justify requests for growth codes on the basis of the needs of large customers. MCI WorldCom provides service to many large corporations and other organizations that require the vast majority of an NXX code. It must again be emphasized that it takes at least five months to make a code available to customers. Any showing of need must be based on a five-month projection, based on actual recent growth or the requirements of a large customer. This timeline can be shortened only if the Commission acts to shorten the period required for NXX activation by all carriers.

The Commission should not adopt use of a utilization threshold, by itself, as a barrier to obtaining a growth code. Utilization cannot be considered in a vacuum. Current utilization must be placed in its appropriate context by also examining actual recent growth within the rate area. Mandatory fill rates, by themselves are an inflexible approach to number administration that will disproportionately harm newer entrants. New entrants have fewer codes to begin with. This means that any mandatory fill rate will leave a new entrant with a much smaller number inventory than an established service provider that has more NXX codes in a particular rate area. For example, a fifty-percent fill rate means that a carrier with a single NXX code will have only five thousand numbers available for customers. However, a carrier with five NXX codes will have twenty-five thousand numbers. There can be no justification for this disparity. Only by also examining each carrier's actual recent growth as a way to evaluate its need for an additional code, can this discrimination be avoided

In addition to their discriminatory impact, mandatory fill rates suffer from a number of other infirmities. Any mandatory utilization level that would serve as an absolute prerequisite

for obtaining an additional code would encourage service providers to artificially inflate their utilization. Such inflation might be difficult to discover. Accordingly, enforcement of the fill rate would be administratively costly, as well as uneven. A mandatory fill rate would also penalize the fastest growing carriers, since these would be the carriers most likely to require a code in advance of when they achieve the fill rate. Most importantly, a mandatory fill rate simply misses the point. There is no information on the record to show that growth code requests are a substantial factor in NPA exhaust. Indeed, all available information shows that the footprint needs of new service providers are by far the most significant factor in premature area code exhaust. By focusing on fill rates, which will only affect the timing of when NANPA assigns a growth code and will have no impact on footprint needs, the Commission would expend time and resources on an arbitrary standard that will do nothing to advance the cause of code conservation. Given the significant risks to carriers that will actually need a growth code even though they have not achieved the Commission's mandatory fill rate, along with the absence of code conservation benefits, the Commission should not establish any fill rate as a prerequisite to obtaining a growth code.

#### **B. Mandatory Ten-Digit Dialing and Reclamation of Protected Codes**

Mandatory ten-digit dialing is another potential optimization measures for which the Commission seeks further information from the public. The Commission assumes that requiring national ten-digit dialing would permit the release certain NXXs in certain NPAs that remain "protected." The Commission further assumes that by implementing national ten-digit dialing, the incentives to implement geographic splits rather than overlays would be eliminated because,

the Commission claims that it is only the desire to maintain seven-digit intra-NPA dialing may be the only reason a geographic split is implemented.<sup>30</sup>

The Commission should not confuse national ten-digit dialing with certain number optimization measures. There may be many reasons to implement a national ten-digit dialing but number optimization is not among them. Requiring national ten-digit dialing may be the first step in expanding the NANP. Implementing ten-digit dialing years in advance on of NANP expansion will allow the public to become accustomed to dialing more digits.<sup>31</sup> Practical experience with overlays and the associated ten-digit dialing requirement in Colorado and Maryland, for example, shows that ten-digit dialing is not a significant burden. If fact, there is little proof that overlay rather than geographic split provides for a longer NPA life. In Atlanta and Miami, for example, where overlays were implemented a short time ago, are both experiencing jeopardy situations.<sup>32</sup>

If the Commission sees the need to open protected codes, it can do so without national ten-digit dialing. As we stated in our NRO comments, national ten-digit dialing is not needed to open protected codes in certain communities. The custom of seven-digit dialing must be weighed against the current crisis in the shortage of NXXs and inability of other customers to be assigned numbers they need for service. Releasing protected codes for future use is one of the simplest measures the Commission or the NANPA can take to ensure continued number availability. The reason that state regulators may agree to protect codes is to maintain the status quo for some of their communities. Yet, seven- digit dialing was not always the status quo for dialing numbers. Before the current NANP was introduced in the 1940's, four-digit dialing was

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<sup>30</sup> Notice at paras 123-126. (CO Code Guidelines)

<sup>31</sup> After expansion, a NANP address is expected to be up to twelve digits in length.

common in the United States.<sup>33</sup> Even earlier than that, all calls were made with the assistance of a live operator. The Commission should base any decision on whether to implement national ten-digit dialing is in the public interest, not on whether it will allow for protected codes to be released and assigned for service. This can be done without national ten-digit dialing.<sup>34</sup> Also, as explained in more detail in Section IX, an overlay is not necessarily more efficient than a geographic split. Each area code relief method has its costs and benefits. For instance, an area code split may be more appropriate in an area that covers a large geographic area (e.g., Long Island, NY), where the geographic association with a telephone number can be preserved. An overlay may be more appropriate in small geographic areas like Detroit or Los Angeles, California, where the area is too small to reasonably split.

Implementation of national ten-digit dialing would require a nationally coordinated effort so that customers with PABX are aware of the change and properly implement the numbering changes in their phone equipment.

### **C. D-Digit Expansion**

As the Commission correctly noted, the industry is already planning for the expansion of the NANP, whenever that will occur.<sup>35</sup> While the industry is still reviewing different options on the form that the expanded NANP will take, one thing is certain—there will have to be a time when both the current ten-digit NANP and the expanded NANP must co-exist. In fact, opening

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<sup>32</sup> Atlanta implemented the 770 NPA in 1Q98 to overlay the 404 NPA. 770 is projected to exhaust in 3Q01. Miami implemented the 786 NPA in 1Q98 to overlay the 305 NPA. 786 is projected to exhaust in 4Q00. Both exhausts are shorter than the five years recommended in industry guidelines.

<sup>33</sup> *The Longer the Number the Better the Service*, by Mr. Herb Hackenburg, US West

<sup>34</sup> The Commission should ask NANPA to provide it with a list of NPAs with protected codes.

<sup>35</sup> Notice at para.127.

the D-digit is a form of NANP expansion.<sup>36</sup> During the transition there must be a trigger to alert the switch whether the number being dialed is in either the current NANP or the expanded NANP. The industry has reserved the D-digit as a possible indicator to the network of whether an old or new NANP address has been dialed. Without some sort of trigger there will be no smooth transition from one numbering plan to the next numbering plan.

The costs associated with D-digit expansion do not only apply to network carriers, but also to owners of PABXs and other type of specialized phone equipment. Since any perceived benefits of D-digit expansion will not be realized before pooling is implemented, it is questionable whether imposing such costs on PABX owners is needed at this time. The additional NXXs the Commission expects to be available after D-digit expansion may be less significant after implementation of pooling reduces footprint requirements (and cannot be implemented before pooling.) The Commission should not disrupt the efforts of the industry to ensure a smooth transition from the current numbering plan to the future numbering plan. D-digit expansion must be accomplished in coordination with the transition to the new numbering plan, whenever that will occur.

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<sup>36</sup> One approach to expanding the current NANP address is to allow the use of "0" and "1" in the "D" digit. (The NANP address in form of NXX-NXX-XXXX, where N is 2-9 and X is 0-9, the "D" digit is fourth digit from left.) This also requires the implementation of intra-NPA ten-digit dialing. The result of removing the restriction on the values of the "D" digit is to expand the quantity NANP addresses by 20%. Another approach to increasing the quantity of NANP addresses is to expand the NANP address length to 12 digits, providing a 100-fold increase in available addresses. However, this form of NANP expansion is impacted by the premature opening of the "D" digit described above. If the "D" digit is changed to permit the use of "0" and "1", the subsequent expansion of the NANP address to 12 digits is impacted. When the expansion is begun, there will be both 10-digit and 12-digit address co-existing. Without the ability to use the "D" value of "0" and "1" to indicate a 12-digit address, customers will have to dial an end-of-string digit, such as #, or will have to experience inter digit time out, adding several seconds to call setup times. Experience with the use of inter-digital timing to allow mix of 7-digit and 10-digit dialing, in New Jersey for example, has shown a significant customer objection to this technique.

#### **D. Carrier Choice of Optimization Strategies**

The Commission is to be commended for seeking to minimize intrusive or burdensome regulatory mandates on carriers.<sup>37</sup> However, the Commission's ultimate responsibility for the numbering plan and number administration counsels against allowing carriers to adopt whatever number conservation strategy they might choose.

In the first place, the Commission should not establish target utilization thresholds. As is demonstrated above, superficially low utilization is a symptom of underlying inefficiencies in legacy number assignment and administration policies. The only way to improve telephone number utilization is to develop number assignment and administration policies that allow service providers to establish their service footprint with fewer numbers.

Neither should the Commission leave the choice of number optimization methods to carriers. Measures such as pooling and UNP will provide the greatest possible benefits to conservation and competition when participation is maximized. By allowing carriers to opt out of these measures, the Commission would significantly limit their potential benefits. To make matters worse, by requiring carriers to achieve arbitrary utilization levels via whatever means possible, the Commission could cause fragmentation of the public switched network. By encouraging carriers to take such radical steps as the unilateral adoption of inconsistent rate areas, the Commission would reduce the scope of LNP and minimize the conservation benefits of pooling. Carriers must not be forced to make such destructive choices.

NANPA's exhaust study demonstrates that the conservation benefits of pooling are maximized when the maximum number of service providers participate in pooling. However, carriers that adopt inconsistent rate areas cannot participate in the same pools as carriers that

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<sup>37</sup> Notice at paras. 216-223.

adhere to consistent rate areas. Thus, any policy that encourages the adoption of inconsistent rate areas harms number pooling. Moreover, LNP also depends on the use of consistent rate areas. It is extremely difficult for a service provider to port in a number from a carrier that uses inconsistent rate areas. Carriers will be reluctant to port in such numbers. Thus, inconsistent rate areas would limit the scope of number portability. Any such limitation is inconsistent with the statutory mandate and the Commission's rules in support of number portability.

The most promising solutions to the existing inefficiencies in the assignment and administration of numbering resources require the coordinated efforts of all industry segments. The Commission must provide the leadership that is needed to achieve such coordination. It must not tell service providers to try to fix, on their own, the symptom of low utilization. The Commission must instead establish policies that will enable service providers to establish service footprints with fewer numbers, and will extend the life of the NANP. The Commission should not encourage the fragmentation of the public network.

#### **E. Unused NXX Blocks**

The Notice explored possible ways that the Commission might require reclamation of NXX blocks that may not be in use by their assigned code holder.<sup>38</sup> The Commission tentatively concludes that the current activation and reclamation requirements and timeframes in the CO Code Guidelines should be modified in several ways to encourage more efficient use of NXX codes. The Commission further tentatively concludes that clarifying the INC definition of "in service" should be changed to mean that a carrier has begun to activate and assign to end users numbers within the NXX code and not just activation of the code through the transmission of local routing information to the LERG. The Commission claims this change is needed to ensure

that NXX codes are not left idle for a lengthy period. Although no examples are given to show that this is a problem, the Commission claims that this change alone will prevent certain carriers from activating only a few numbers in the NXX to avoid reclamation of the entire code but rather to implement such change in connection with sequential numbering.<sup>39</sup>

MCI WorldCom respectfully disagrees with the Commission's conclusions in this area. The Commission must not ignore the many considerations behind activating NXXs and gaining new customers. It can take up to five months (in some cases longer) from when an NXX is assigned to when it is working in the network. A code holder must not only consider its own network, but must ensure that the NXX is working in other networks as well. It has been MCI WorldCom's experience that not every carrier will have an NXX active by the LERG effective date. If a customer is assigned telephone numbers in NXXs that are not dialable in every network the customer will not receive all calls. It is not surprising that there is some time between the LERG effective date and the date the code holder actually begins to assign customers. A code holder may use that time to test other carriers' networks. The Commission needs must fix this problem first, before any changes are made to current telephone number assignment practices. In addition, especially for footprint NXXs codes, the assignment of the first customer is a market driven event. A carrier can only schedule when it opens its doors for business, it cannot predict when the first customer will walk in.

As MCI WorldCom stated in its comments to five state petitions, the Commission should direct the states to work with NANPA to follow the guidelines on when to reclaim codes.<sup>40</sup>

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<sup>38</sup> *Id.* at paras. 95-100.

<sup>39</sup> *Id.* at para 98.

<sup>40</sup> These petitions are from the states of California, Florida, Maine, Massachusetts and New York. Comments to a similar petition filed by Texas are due on August 16, 1999 (See, *Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures*, Public Notice DA 99-1380, NSD File No. L-99-55 (released, July 14, 1999)

Such consideration has been shown to produce significant code reclamation as shown in Colorado.

## **VII. ADMINISTRATIVE MEASURES CAN NOT REPLACE CONSERVATION MEASURES**

The Commission has proposed a number of administrative changes. MCI WorldCom generally supports administrative changes that will improve the consistency and accuracy of numbering administration. Such measures do not provide conservation benefits, however, and are in no way a substitute for true conservation measures.

### **A. Standardized Definitions**

Standardized definitions, data collection and reporting will assist the Commission and the states in understanding how carriers use numbers. MCI WorldCom agrees with the Commission's tentative conclusion that a uniform set of definitions for the status of numbers be established.<sup>41</sup> Even though many states have been collecting carrier data over the past year in connection with area code relief planning, there has been no way to ascertain whether every carrier manages its inventory in the same manner. Some carriers may already follow the proposed INC definitions, while others may use internal definitions not in line with the INC definitions. Management practices that worked well in the past may have to be overhauled to operate in a competitive environment. In the absence of standardized rules, other than voluntary industry guidelines (which have been in flux for years), each carrier may have developed procedures and methods that best fit its business. In most cases, especially in the case of CLECs, numbers are obtained to meet the footprint requirements needed to offer service. The Commission will find, once this data is collected, that very few CLECs have obtained many

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<sup>41</sup> Notice at para. 39.

growth codes beyond their initial code requests and thus CLECs have the minimum amount of numbers they need for their business.<sup>42</sup>

Standardized definitions are needed to provide clear and accurate picture of the condition of the NANP. It is also important that the Commission translate these definitions into rules so the definitions do not changeover time. Just as with toll free numbers, there must be a clear and precise understanding of which state a number will be in at any time for all code holders so that more accurate projections of exhaust can be made.<sup>43</sup> Having similar rules for telephone numbers will improve the consistency of data collection. Just as in the toll free rules, the Commission must separate definitions from lag times.<sup>44</sup> While this data collection in and of itself is not a number optimization method, it is required before the Commission and others can confidently project the life of any new NPA and, by extension, of the NANP. Industry guidelines on this topic have outlived their usefulness.<sup>45</sup>

Uniform number definitions are also needed to ensure an accurate COCUS, as well as to assist an auditor during its carrier investigations. While all the definitions proposed by the Commission are not needed to accomplish the goals set out in the Notice, a minimum set of number categories are needed to met these goals, as well as for NANPA to develop a useful COCUS, and for an auditor to succeed in its efforts. MCI WorldCom proposes that there be a minimum set of definitions that carriers must maintain for reporting. A subset of those definitions should be used for auditing. This will provide for an industry-wide process to ensure that each carrier is counting its number inventory in the same way and will also improve the accuracy of the next COCUS. The minimum set of definitions that each carrier should maintain

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<sup>42</sup>The NANPA Exhaust Study at Section 3-13.

<sup>43</sup> Many of the NPA projections today are based on voluntary reporting of data by code holders. This, many times, led to inaccurate and misleading NPA projections as recently occurred in Florida- cite Florida petition.

and report as COCUS data is: Administrative, Aging, Assigned, Dealer Pool, Port-out and Reserved.

Incorporating these definitions into the CO Code Guidelines without establishing federal rules is insufficient. Industry guidelines are still voluntary and carriers are not required to follow these recommendations. Industry guidelines are meant to establish inter-carrier procedures and processes, or, in the case of numbering, process and procedures NANPA must follow when dealing with the industry. Guidelines do not and should not determine policy matters that are best left to the Commission. In addition, current guidelines can be changed or modified at any time based on a contribution from a forum participant. Thus, guidelines cannot be made equivalent to the Commission's rules. Commission lacks the authority to delegate its rulemaking function to another body.

#### **B. Reserved Number Definition**

We agree with the Commission's proposal that a narrow definition be adopted for both "reserved number" and "reserved code."<sup>46</sup> We respectively disagree, however, with the Commission's proposal to set forty-five days as the time limit in which a number can be held in reserved status. The Commission proposes to adopt the "toll free reserved" lag time for telephone numbers (TNs). However, the Commission must realize that "reserved" toll free numbers are used differently than "reserved" telephone numbers. Reserved telephone numbers are more comparable to assigned toll free than to reserved toll free. Since toll free service is structured such that there is one national database that houses all toll free numbers at an individual telephone number level and each responsible organization (RespOrg) must only take a

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<sup>44</sup> 47 CFR Section 52.103.

<sup>45</sup> See CO Code Guidelines Section 1.0.

<sup>46</sup> Notice at para. 48

number from the toll free database when it has a customer or a potential customer, there are obvious differences in how numbers are managed when compared to TN. TN-reserved is better compared to toll free assigned because in both cases a customer is associated with the number or numbers. Toll free reserved was designed to capture the time before a customer has made his/her final decision to use a particular carrier. No such status exists in TN today (Although MCI WorldCom did propose such a status.)<sup>47</sup> The lag time for assigned status for toll free numbers is six months. This is understandable because toll free numbers are an even more limited resource than TN numbers. When a customer reserves numbers it is for anticipated future growth he expects for his business in the upcoming year. Setting the reserved number lag time at up to twelve months or longer for telephone numbers is still appropriate for the business needs of the public.<sup>48</sup>

### **C. Reserved Number Fee**

MCI WorldCom supports the establishment of fees for numbers that are held in reserved status for longer than one year. Unless there are economic consequences for doing so, carriers may elect to maintain unnecessarily large number inventories in reserved status. In most cases, one year is a sufficiently long period of time to reserve a number. It is appropriate that reservations longer than one year carry some financial cost.

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<sup>47</sup> MCI WorldCom proposed, to the NRO, a "pending reserved" status be adopted in the new COCUS. The proposal was rejected by the NRO. See, NRO Meeting Minutes, January 20-23, 1999.

<sup>48</sup> Most importantly, the Commission should realize that it takes more than forty-five days to provision the local loops needed for service. Certain established services such as CENTREX and DID only provide numbers in blocks. Such numbers are assigned in blocks to improve routing and switch translation efficiency. Therefore, customers are required, by the incumbent, to obtain a minimum amount of telephone numbers. Some TNs will be assigned to users immediately, some will be assigned as needed. A example is the Commission itself: all Washington, DC Commission employee have a number assigned within the 202-418 NPA-NXX. Needless to say there are obvious benefits for a business or government office to have numbers in the same NPA-NXX.

MCI WorldCom has proposed that the industry adopt a reserve number fee policy in accord with the following:

- 1) starting from the time when a number is first placed in reserved status, there would be a “grace period” of up to one year, during which time no carrier charge would apply to the reserved number;
- 2) each carrier would be assessed a fee for each number held in reserved status longer than the “grace period”;
- 3) the fee could be applied either as a flat fee per number, or as a graduated rate that would increase along with that carrier’s total volume or percentage of reserved numbers;
- 4) the fees could also be applied on a sliding scale where the per-number charge would increase the longer each number is held in reserved status;
- 5) there would a gradual conversion period for existing customers with reserved numbers.

MCI WorldCom believes that a policy such as this would provide substantial benefits for the efficiency of number administration. However, significant unresolved issues remain. These include the source of the Commission’s authority to order such a measure and the use that would be made of the funds collected.

#### **D. COCUS**

The Notice properly recognizes that the current Central Office Code Utilization Study (COCUS) has a number of shortcomings that if left unaddressed, will render the current COCUS

increasingly unreliable as a tool for managing current and future numbering resources.<sup>49</sup> The Commission specifies certain requirements it can adopt to improve the current COCUS and asks of comment of these requirements. The NRO, at the direction of NANC, has been studying, evaluating and developing a new COCUS model. NANC provided results of that study to the Commission, on June 30, 1999, with few changes.<sup>50</sup>

The NRO document identified over twenty deficiencies with the current COCUS and proposed a series of recommendations to correct these deficiencies.<sup>51</sup> The NRO report studies four proposed models that would address these some deficiencies and concludes that the Hybrid model is a reasonable compromise of the other three COCUS models.<sup>52</sup> This hybrid model, the NANC believes, “appears to provide the optimum balance of keeping data collection and reporting burden on service providers at a manageable level, while providing the NANPA with the additional resources needed to provide more accurate exhaust projections.”<sup>53</sup>

While MCI WorldCom supports the efforts of the NANC and agrees with most of the NRO report, there are a few areas where MCI WorldCom depart from the report. First, we do not think it is appropriate for any state commission to lose its “right “ to obtain future data.<sup>54</sup> Such an action is absurd. As stated in Section VII.F the states, in their role as NPA relief planner, act under delegated federal authority. As such, the states are required to act as the FCC’s surrogate in this area and cannot (and most likely will not) abuse market-sensitive data.

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<sup>49</sup> Notice at para. 72

<sup>50</sup> Immediately following, the FCC issued a public notice requesting public comment on this recommendation be incorporated into these comments. See, *Common Carrier Bureau Seeks Comment on [NANC] Recommendation Concerning Replacement of [COCUS]*, CC Docket No. 99-200, NSD File No. L-99-51, DA 99-1315 (released July 1, 1999) (The NRO Report)

<sup>51</sup> *Id* at Section IV.

<sup>52</sup> The models are: The AT&T Minimalist Model, Line Number Utilization Survey (LINUS), USWest’s recommendation, Hybrid Model. (*Id* at Section V) See also, Cite the Notice.

<sup>53</sup> *Id* at 4-5.

<sup>54</sup> *Id* at 7.

The Commission must simply clarify the relationship between the states commissions and the code holders in this area (specifically with CMRS providers).

The Notice also concludes that COCUS data should be reported on a quarterly basis rather than annually, as done today. The Commission is correct to recognize that annual COCUS data become quickly outdated. However, the Commission's proposal fails to recognize that it may at least five months for a new code to become activated and available to the code holder for assignment. Therefore, while NANPA will see little change from one quarter to the next, it may see significant changes by the third quarter. Until the current code opening processes are improved, quarterly data will provide little incremental benefit over semi-annual data. MCI WorldCom agrees with the NANC recommendation that proposes data be collected twice a year. We are confident that semi-annual data collection in all NPAs is a reasonable compromise that will satisfy the need to have more accurate COCUS data throughout the year, while still not overburdening small carriers, like CLECs, who have few resources to meet these data requests.

With respect to audits, MCI WorldCom respectfully disagrees with the NANC proposal.<sup>55</sup> As described in more detail below, MCI WorldCom believes that the Commission already has all the authority it needs to conduct audits and that audits should not be "control[led]" by industry guidelines, but rather, guidelines should set a benchmark for an auditor to use to determine compliance. However, the NANC is continuing its work on a comprehensive audit framework recommendation to the Commission. MCI WorldCom encourage the Commission set a date certain for when the NANC must complete its recommendation to the Commission.

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<sup>55</sup> *Id* at 7.

We also disagree with the NANC COCUS Recommendation with respect to the level of data that should be collected. We believe, that to get an accurate picture of any one NPA and the NANP collectively, all carriers must report their information twice a year for each NPA in which they have an NXX assigned. Reporting only data as “available” or “unavailable” does not provide the level of detail that the Commission and the states need to truly understand how numbers are being used.

Lastly, we do not anticipate that a new COCUS, once approved by this Commission, will take up to three years to develop, as suggested by the NRO. MCI WorldCom believes that such development can be accomplished in half the time.

In sum, MCI WorldCom believes that the hybrid model will allow for all code holders to report COCUS data no more than twice a year and still meet the general principles of the COCUS: 1) to forecast exhaust of NPAs and by extension, of the NANP; 2) as a tool to satisfy inputs to audits; 3) to provide a means for regulators to access data to support state area code relief efforts.

The Commission correctly concludes that all “users of numbering resources” are required to submit COCUS data. However, MCI WorldCom would further specify that it is the responsibility of the code holder of record to report this data. It is not reasonable or manageable to make the NANPA responsible for ensuring that secondary users of numbering resources (e.g., resellers) report data. NANPA is only able to identify the code holder. Without the code holder intervention, NANPA does not know all the resellers (both wireline and wireless) which are using numbers already assigned to code holders. If after the reseller data is reported, NANPA wishes to contact the reseller, it may do so to get its direct questions answered. It is not the best use of NANPA’s time to search out all resellers that the code holder may have established

business relationships with. In fact, in the case of resale, each code holder may or may not assign blocks of numbers to the reseller. It is not realistic or practical to expect NANPA to figure this out for each code holder.

MCI WorldCom recommends that all COCUS data be treated as highly confidential. The Freedom of Information Act includes explicit protection for “trade secrets” and commercial or financial information.”<sup>56</sup> COCUS data include extremely sensitive competitive information. The Commission should assure all parties that insofar as it has access to this information, it will guard the information’s confidentiality. Parties should also receive all necessary assurances from states that seek access to this data that the states will also protect its confidentiality. If NANPA makes any public presentation of COCUS data, it should do so only in aggregate form, either for the industry as a whole or by industry segment, without revealing any code holder-specific information.

The Notice further asks whether the Commission should adopt various alternative data collection options.<sup>57</sup> The Commission must not lose sight of the overall purpose of COCUS—to provide a tool for NANPA to use to project the life of the NANP, not just each NPA. Any alternative that allows for a partial collection of data-- whether it is only for certain NPAs or carriers --will only provide a partial picture of the NANP. Therefore, any requirement the Commission adopts for COCUS data reporting must apply to all code holders and all NPAs whether or not pooling is present.<sup>58</sup> Collecting data only in areas where pooling is implemented will assist in determining the life only of that pooling NPA—not of the entire NANP.

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<sup>56</sup> 5 U.S.C. Sec. 552(b)(4)

<sup>57</sup> Notice at para. 79.

<sup>58</sup> The Hybrid Model proposed by the NANC also recommends data to be collected for each NPA for all code holders.

The Notice specifically seeks comment on whether the NANPA proposal for Line Number Utilization Survey (LINUS) meets its data collection requirement or whether modifications to LINUS are required in order to make it more responsive to its forecasting and tracking needs.<sup>59</sup> As MCI WorldCom has previously stated, premature area code exhaust and by extension, premature exhaust of the NANP occur because of inefficiencies in the assignment and use of NXX codes, not because of inefficiencies in the utilization of telephone numbers. Monitoring, on a quarterly basis, line number utilization, as proposed by the Commission will only lead to over-burdening the code holder with data collection with little added benefit as compared to a six month reporting interval of data. Such a burden is inconsistent with the mandate of the Paperwork Reduction Act.<sup>60</sup>

#### **E. Audits**

MCI WorldCom fully supports the Commission's efforts to adopt verification measures through a comprehensive auditing program that verifies carrier compliance with federal rules. In our NRO comments, MCI WorldCom encouraged the Commission to use its existing authority to audit the largest code holders for both utilization levels and the status of their assigned numbering resources.<sup>61</sup> The Commission need not adopt additional numbering-specific audit rules in order to conduct audits. Section 220 of the Act fully authorizes the Commission to conduct audits. The Commission, however, cannot use an audit as an occasion to enforce industry guidelines unless it has previously memorialized a specific guideline as a valid federal rule.

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<sup>59</sup> Notice at para. 81.

<sup>60</sup> 44 U.S.C. Sections 3501-20.

<sup>61</sup> See MCI NRO Comments at 28.

The Act allows for the Commission to delegate its numbering authority to any party it deems fit.<sup>62</sup> Should the Commission decide that it does not have the resources to complete audits on the code holders that hold 80% of the codes, it should delegate this job to an independent third party auditor that is not the NANPA. The Commission's audit program should conduct a one-time audit of these code holders, then conduct "for cause" audits as needed on individual code holders going forward. A complete industry audit of the largest code holders may only need to be conducted once every three to four years as the Commission sees fit. However, the Commission need not establish detailed rules in this area. Rather, in its Order, the Commission need only explain its plan and move forward with implementation under its existing authority.

Industry efforts to developed guidelines for an auditor to follow have been fruitless. It is time for the Commission take a leadership role in this area. The purpose of an audit is to determine whether a code holder is using the resources assigned to it in a manner consistent with the Commission's rules. An audit should review all records, documents and procedures used by a code holder for number administration.

No code holder is exempt from an audit. If a code holder is found to be non-compliant with the Commission rules, the code holder should be allowed to develop an action plan (approved by the Commission) to correct the deficiencies. If a code holder fails to met its action plan, future numbering resources may be withheld from the code holder or forfeitures may be incurred as the Commission sees fit. However, MCI WorldCom cannot see an instance where a code holder may be required to surrender its carrier certification or license to provide service. Such a penalty is out of proportion with failing to following voluntary industry guidelines.

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<sup>62</sup> 47 U.S.C. Section 251(e)(1)